

APPEAL NO. 022304  
FILED OCTOBER 25, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 16, 2002. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury and that she did not have disability. In her appeal, the claimant argues that the hearing officer's determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury. The claimant had the burden to prove that she sustained a compensable injury. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In this instance, there was conflicting evidence on the injury issue. Although, the hearing officer acknowledged that the claimant had a back injury, he was not persuaded that the claimant sustained her burden of proving that the act of pushing the buckets across the floor was a producing cause of the claimant's back condition. There was testimony from two coworkers of the claimant's stating that she had complained of back pain prior to the incident of pushing the buckets at work. The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Our review of the record does not demonstrate that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse the determination that the claimant did not sustain a compensable injury on appeal. Pool; Cain.

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because the claimant did not sustain a

compensable injury, the hearing officer properly concluded that the claimant did not have disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **STATE FARM FIRE AND CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**RON DODD  
8900 AMBERGLEN BOULEVARD  
AUSTIN, TEXAS 78729-1110.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Margaret L. Turner  
Appeals Judge